

June 11, 2001

ILLINOIS COMMERCE COMMISSION

STAFF REPORT

**Subject: HIGHLAND SHORES WATER COMPANY**

**CAPSULE SUMMARY**

The purpose of this report is to advise the Manager of the Water Department (WD) of Staff's findings during a follow-up inspection on the Order, entered June 16, 1999, in Docket No. 97-0606, concerning Highland Shores Water Company (HSWC or Company).

After inspecting HSWC's water facilities, discussing compliance with the Order with Company personnel, and considering alternatives of ensuring that the Company will comply with the Order, Staff recommends that the Commission reopen the docket proceeding. It can then determine why HSWC has not complied with the findings in the Order and investigate HSWC's filing for bankruptcy. Further, Staff recommends that HSWC be placed in receivership under Section 4-501 of the Public Utilities Act (Act).

**PROCEDURAL HISTORY**

On January 10, 1997, Mr. Thomas P. Mathews, owner and operator of HSWC filed for an increase in revenues under the Commission's simplified rate case procedures. In response to HSWC's notification to the customers about the rate increase, the Consumer Services Division (CSD) received replies from customers opposing the rate increase. As a result of those replies filed by the customers, a public meeting was held on March 18, 1997.

The purpose of the public meeting was to allow customers the opportunity to voice any concerns about issues regarding the Company. Mr. Mathews, Mr. Jeff Klaus (Vice President) and, Mr. Clyde Kurlander (legal counsel) represented HSWC at the public meeting. Representatives from the Illinois Environmental Protection Agency (IEPA) were present and also answered questions. Approximately 75 customers served by HSWC attended the meeting. At that time, the customers voiced anger and frustration about

the quality of water, Company management, service, and the lack of concern and action by the Commission and IEPA.

As a result of the public meeting, the Commission initiated a Citation proceeding which terminated the simplified rate case procedure and commenced an investigation into its rates and non-compliance to Commission's rules and regulations.

Based on the evidence from the proceeding in Docket No. 97-0606, the Commission entered an order requiring HSWC to take corrective actions in their operations and bookkeeping to enable them to improve service to their customers. The following summary set forth the actions to be taken and the deadline to be completed. (Note that all deadlines extend from the date of the Order.)

	Requirement	Deadline	Completion
1.	Establish a meter testing program on meters that are 10 yrs. or older;	120 days	Not completed
2.	Participate in State-Wide One Call Notice (JULIE);	1 year	Yes
3.	Installation of meters to all customers;	1 year	Not Completed
4.	Quarterly reports indicating location of installed meters and remotes and documenting quantity of customer refunds;	Quarterly	Not Completed
5.	Install an additional main along Lake Shore Drive north of Ramble Road;	5 years	Not completed
6.	Dead-ends mains to be looped;	5 years	Not completed
7.	Replace or repair 4 hydrants and correct the discrepancies on Schedule 3.03 (a) and (b);	1 year	Not completed
8.	Install new elevated storage tank with at least 200,000 gals.;	18 months	Not completed
9.	Install hydrants or flushing hydrants on uncapped mains;	90 days	Not completed
10.	Establish 8" future main program;	--	No mains installed.
11.	a) Install alternative source of power for wellhouse, and; b) moisture proof electrical	6 months	Not Completed  Completed

	receptacles; and		
12.	Establish and maintain continuing property ledger.	6 months	Not completed

### **COMPANY DESCRIPTION**

HSWC is currently providing water service to approximately 650 residential customers in Highland Shores Subdivision, in McHenry County, Illinois. HSWC is one of five utilities in McHenry County owned by T. P. Mathews. The other affiliated utilities are:

McHenry Shores Water Company;  
Crystal Clear Water Company;  
Northern Illinois Utilities, Inc.; and  
Wonder Lake Water Company.

HSWC received its initial Certificate of Public Convenience and Necessity on March 13, 1953, in Docket No. 40228.

The water distribution system for HSWC consists of two wells, one hydropneumatic storage tank for a capacity of 20,000 gallons, one 45,000 gallon elevated storage tank, approximately 36,500 feet of four through eight inch diameter mains, approximately 644 services, 644 meters, and eighteen (18) hydrants and four (4) flushing valves.

### **WATER QUALITY**

At the March 18, 1997 public meeting, the customers complained about water quality. Their concerns were the look, smell, and low pressure of the water reaching their homes. Specifically, customers complained about noticeable variances in chlorine smell, rusty water and how the poor quality of water was affecting the useful life of their water heaters and water softeners. As explained to the customers, the rusty water problem is due to the iron content of the water. IEPA reported HSWC's well supply has an iron content of approximately 0.43 mg/l. While this is less than IEPA's standard of 1.0 mg/l, an iron level of this amount is sufficient to cause aesthetic problems.

During Staff's inspection of the water facilities and flushing of the hydrants on April 12, 2001, with the exception of the water within the hydrant branch, the water appeared to become clear shortly after opening the hydrants. A test for chlorine was conducted on Hydrant No. 18, located between Vine Ave. & Oriole Trail on Pleasure Lane, the sample showed chlorine content of .5

mg/l, which is above the minimum level of free chlorine residual established by Illinois Environmental Protection Agency of 0.2 mg/l or a minimum level of combined residual of 0.5 mg/l.

## **BILLING AND RATES**

During Staff's inspection of the billing records in the Citation proceeding, Staff testified that approximately 108 customers had bills that were estimated two or more consecutive times. Estimating bills consecutively is a violation of 83 Ill. Code 280.80, "Estimated Bills", which requires that an actual meter read be performed at least every second billing period unless a variance is granted. The Company reported that they have been reading the meters, however, at the time of this inspection, the Company had not read meters for three consecutive periods.

Further, Staff found that there were several customers required to pay a Non-Sufficient Fund (NSF) fee. Staff indicated that the Commission had not approved this charge nor did the Company have any charges filed in their tariffs. In the order, the Commission required HSWC to submit quarterly progress reports indicating the locations where meters and remotes were installed and quarterly reports documenting customers to whom refunds were made with interest and the amount of refunds. HSWC made one report to Staff, but did not contain information about refunds or meter installation.

Approximately a year later Staff requested the information be made available. At that time, Mr. Mathews indicated that the Company was unable to provide that information due to a Y2K problem with their computer. When Staff requested the information again, during this inspection, the Company indicated that they would have to contact the software manufacturer to see if they could provide assistance in getting the information we needed to review customer's accounts. This information has not been provided.

In addition, it was reported that Mr. Mathews is charging customers a \$300 charge to attach to the water system. This charge has not been approved by the Commission nor is it in their current filed tariffs. Therefore, charging fees that have not been approved by the Commission is a violation of Section 9-240 of the Public Utilities Act (220 ILCS 5/9-240) which states in part:

**"No public utility shall charge, demand, collect or receive a greater or less or different compensation for any product, or commodity furnished or to be furnished, or for any service rendered or to be rendered, than the rates or other charges applicable to such product or commodity or service as**

**specified in its schedules on file and in effect at the time except as provided in Section 9-104..."**

### **VALVE AND HYDRANT**

83 Ill. Adm. Code 600.240 requires each utility to establish a valve and hydrant inspection program. Valves and hydrants must be kept in good operating condition and should be inspected at least annually. Valves and hydrants found to be inoperable are required to be repaired or replaced. Valve covers must be maintained at grade level and not paved over. Each inspection and all maintenance must be properly noted on the valve and hydrant record card.

Based on Staff's investigation, it appears that HSWC has instituted a valve exercise program. However, HSWC has not made the necessary repairs and/or replacement of the hydrants as required by the Order in 97-0606.

### **METERS**

Based on Staff's discussion with Company personnel, Staff believes that HSWC has not started a regular meter testing program or a replacement program as required by 83 Ill. Adm. Code 600.300. Company personnel indicated that the meters are changed out as needed.

### **BANKRUPTCY**

The Order entered in Docket No. 97-0606, on June 16, 1999, not only required the utility to upgrade its water facilities, but granted HSWC an increase in revenues of \$8,515, which represented a revenue change of 8.6%. On or about late October or early November, 1999, HSWC filed for bankruptcy.

Section 4-501 of the Act states:

- (a) If a public utility or telecommunications carrier that has fewer than 7,500 customers:
  - (1) is unable or unwilling to provide safe, adequate, or reliable service;
  - (2) no longer possesses sufficient technical, financial, or managerial resources and abilities to provide safe, adequate, or reliable service;

- (3) has been actually or effectively abandoned by its owners or operators;
- (4) has defaulted on a bond, note, or loan issued or guaranteed by a department, office, commission, board, authority, or other unit of State government;
- (5) has failed to comply, within a reasonable period of time, with an order of the Commission concerning the safety, adequacy, efficiency, or reasonableness of service; or
- 6) has allowed property owned or controlled by it to be used in violation of a final order of the Commission the Commission may file a petition for receivership and a verifying affidavit executed by the executive director of the Commission or a person designated by the executive director asking the circuit court for an order attaching the assets of the public utility or telecommunications carrier and placing the public utility or telecommunications carrier under the control and responsibility of a receiver;

Based on provisions 2 and 5 of Sec. 4-501, it appears that HSWC has demonstrated that they are unable to borrow the necessary funds needed to finance the operations of the Company. They have not completed the necessary requirements of the Order in Docket No. 97-0606, to provide safe, adequate and reasonable service. Therefore, Staff believes that HSWC should be placed in receivership under Sec. 4-501.

### **RECOMMENDATION**

ON May 17, 2001, HSWC filed for an increase in revenues under the Simplified Rate Procedures. Staff expects that there will be considerable public outcry and resentment to any rate increase, especially since HSWC has not met the obligations of the Order in 97-0606. Because of the problems with the operations, as set forth above, Staff recommends that the proceeding in Docket 97-0606 be reopened to investigate why HSWC has not complied with the Order in the above docket and to investigate the filing of bankruptcy. Further, it appears that HSWC is unable

to provide the necessary financing to ensure safe, adequate and reasonable service. Staff further recommends that HSWC be placed into receivership.

Prepared by

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Roy A. King

Approved by

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Raymond E. Pilapil, Manager  
Water Department